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U.S. DISTRICT COURT
N.D. OF ALABAMA

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
WESTERN DIVISION**

ISRAEL HENRY, **Plaintiff,** **v.** **ALLIED INTERSTATE, INC., a corporation; FICTITIOUS DEFENDANTS A, B and C, being that person, entity or individual who attempted to collect a debt from Plaintiff; FICTITIOUS DEFENDANTS D, E and F, being that person, entity or individual who committed the wrongful acts alleged in the Complaint,** **Defendants.**	)	**CIVIL ACTION NO.** ____________________

NOTICE OF REMOVAL

COMES NOW Defendant Allied Interstate, LLC ("Allied"), by and through its undersigned counsel and appearing specially so as to preserve any and all defenses available to it under Federal Rule of Civil Procedure 12, any and all defenses under the federal laws of bankruptcy, and the right to demand arbitration pursuant to contractual agreements and the Federal Arbitration Act, 9 U.S.C. §§ 1, *et seq.*, and pursuant to the provisions of 28 U.S.C. §§ 1331, 1441 and 1446, hereby gives notice of the removal of this action from the Circuit Court of Tuscaloosa County, Alabama, to the United States District Court for the Northern District of Alabama, Western Division. In support of this notice of removal, Allied states as follows:

I. INTRODUCTION

1. Plaintiff Israel Henry ("Plaintiff") commenced this action by filing a complaint against Defendant Allied in the Circuit Court of Tuscaloosa County, Alabama, Case Number CV-2011-901059.00 on or about December 13, 2011.

2. Plaintiff's complaint asserts multiple state and federal claims against Allied. The allegations in Plaintiff's complaint center around efforts to collect a debt which Plaintiff incurred. Specifically, Plaintiff contends, *inter alia*, that Allied violated the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. § 1692, *et seq.*, by allegedly wrongfully attempting to collect the subject debt. *See Compl.*, ¶¶ 93-95. Plaintiff also asserts various state collection law claims and seeks the recovery of statutory damages, actual and compensatory damages, nominal damages, punitive damages, costs, expenses, attorney's fees, and injunctive relief to prevent further alleged violations. *Id.* p. 14, Prayer for Relief.

3. This case is properly removable pursuant to 28 U.S.C. § 1441 because federal question jurisdiction exists. Section 1441 provides, in pertinent part:

> Any civil action of which the district courts have original jurisdiction founded on a claim or right arising under the Constitution, treaties or laws of the United States shall be removable without regard to the citizenship or residence of the parties. Any other such action shall be removable only if none of the parties in interest properly joined and served as defendants is a citizen of the State in which such action is brought.

28 U.S.C. § 1441(a).

II. FEDERAL QUESTION JURISDICTION

4. Federal district courts have "original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States." 28 U.S.C. § 1331. Removal jurisdiction based upon a federal question exists when a federal question is presented on the face of a plaintiff's complaint. *Caterpillar, Inc. v. Williams*, 482 U.S. 386, 392 (1987).

5. This is a civil action arising under the Constitution, laws, or treaties of the United States, as Plaintiff asserts a claim against Allied based upon alleged violations of the FDCPA, a federal consumer protection statute. *See Compl.*, Count I, ¶¶ 93-95; *see also* 15 U.S.C. § 1692; *Clark v. AmSouth Mortg. Co., Inc.*, 474 F. Supp. 2d 1249 (M.D. Ala. 2007) (stating the

defendant properly removed the case to federal court based upon the plaintiff's allegation of an FDCPA violation). Accordingly, Plaintiff's FDCPA claim arises under the laws of the United States and could have been originally filed in this Court.

III. SUPPLEMENTAL JURISDICTION

6. This Court can exercise supplemental jurisdiction over Plaintiff's state law claims because these claims form part of the same case or controversy as Plaintiff's claim for alleged FDCPA violations. The supplemental jurisdiction statute, 28 U.S.C. § 1367(a), provides in pertinent part as follows:

> [I]n any civil action of which the district courts have original jurisdiction, the district court shall have supplemental jurisdiction over all other claims that are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy. . . .

28 U.S.C. § 1367(a).

7. Plaintiff's state law claims asserted against Allied include (1) invasion of privacy (Count II); negligent, wanton and/or intentional hiring, training and supervision (Count III); and negligent, wanton and intentional conduct (Count IV). These claims are related to the same collection activity which forms the basis of Plaintiff's FDCPA claim. Thus, it is clear Plaintiff's state law claims are "so related to claims in the action within [this Court's] original jurisdiction" that they form part of the same case or controversy and, as such, fall squarely within this Court's supplemental jurisdiction as provided under 28 U.S.C. § 1367(a). *See also* 28 U.S.C. § 1441(c) ("[w]henever a separate and independent claim or cause of action within the jurisdiction conferred by section 1331 of this title is joined with one or more otherwise non-removable claims or causes of action, the entire case may be removed and the district court may determine all issues therein. . .").

8. Moreover, this Court should exercise supplemental jurisdiction over Plaintiff's state law claims to avoid an unnecessary duplication of judicial resources. *See Bensman v. CitiCorp Trust, N.A.*, 354 F. Supp. 2d 1330, 1333-34 (S.D. Fla. 2005) (citing *In re City of Mobile*, 75 F.3d 605, 607 (11th Cir. 1996)). Here, Plaintiff's state law claims do not raise novel or complex issues of state law; do not predominate over Plaintiff's demand for relief under the FDCPA; and arise from the same transaction or occurrence upon which Plaintiff's FDCPA claim is based. *See id.* (citing 28 U.S.C. § 1367(c)). This Court, therefore, may properly exercise jurisdiction over all claims asserted in Plaintiff's Complaint, including the state collection law claims.

IV. ADOPTION AND RESERVATION OF DEFENSES

9. Nothing in this notice of removal shall be interpreted as a waiver or relinquishment of any of Allied's rights to assert any defense or affirmative matter, including but not limited to the defenses of: (1) lack of jurisdiction over the person; (2) improper venue; (3) insufficiency of process; (4) insufficiency of service of process; (5) improper joinder of claims and/or parties; (6) failure to state a claim; (7) the mandatory arbitrability of some or all of the claims; (8) failure to join indispensable parties; or (9) any other pertinent defense available under Ala. or Fed. R. Civ. P. 12, any state or federal statute, or otherwise.

V. PROCEDURAL REQUIREMENTS

10. This case is a civil action within the meaning of the Acts of Congress relating to the removal of cases.

11. True and correct copies of "all process, pleadings, and orders" filed to date are attached hereto as Exhibit A in conformity with 28 U.S.C. § 1446(a). To date, there have been no other process, pleadings, or orders served upon Allied in this case.

12. This notice of removal is filed within the timeframe set forth in 28 U.S.C. § 1446.

13. Allied has heretofore sought no similar relief.

14. The United States District Court for the Northern District of Alabama, Western Division, is the court and division embracing the venue where this action was originally pending in state court.

15. Contemporaneously with the filing of this notice of removal, Allied has filed a copy of same with the Clerk of the Circuit Court of Tuscaloosa County, Alabama and a notice of filing notice of removal. Written notice of the filing of this notice of removal has also been served upon Plaintiff's counsel.

16. Allied reserves the right to supplement this notice of removal by adding any jurisdictional defenses which may independently support a basis for removal.

WHEREFORE, PREMISES CONSIDERED, Defendant Allied Interstate, LLC prays that this Court take jurisdiction of this action and issue all necessary orders and process to remove the action from the Circuit Court of Tuscaloosa County, Alabama, to the United States District Court for the Northern District of Alabama, Western Division.

Respectfully submitted,

L. Jackson Young, Jr.
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CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of January, 2012, I caused the foregoing to be served via first-class U.S. Mail, postage prepaid, on the following counsel of record:

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